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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,679	01/08/2002	Rita Lorena Salazar-Leal	214314US30	9035

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

SMALLEY, JAMES N

ART UNIT PAPER NUMBER

3727

DATE MAILED: 02/27/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/038,679

Applicant(s)

SALAZAR-LEAL, RITA LORENA

Examiner

James N Smalley

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-14 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14 and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 6-14, 19-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russo US 2002/0167989 in view of Pariseau US 6,579,006 and in view of Nakasuji et al. US 4,028,118.

Russo '989 teaches a coffee lid having a thermochromic temperature indicator. In paragraph [0024], Russo '989 suggests an embodiment wherein the entire lid is formed of thermochromic materials. Further, in paragraph [0007], Russo '989 teaches the use of thermochromic materials as taught by US 4,028,118 (Nakasuji et al.).

Nakasuji '118 teaches various thermochromic compositions, including thermochromic polymers. In col. 5, lines 15-20, Nakasuji '118 teaches the metachromatism-causing temperature can be free controlled. The reference also teaches in col. 2, lines 39-42, that the metachromatism occurs between -40 and +80 degrees Celsius.

Further, Pariseau '006, teaching thermochromic applications discussed in greater detail below, suggests in col. 7, lines 57-60, that thermochromic indicators can be used on coffee lids for iced coffee applications, which clearly occur between -25 and +40 degrees Celsius.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the closure of Russo '989 of a thermochromic polymer, such as those taught by Nakasuji '118, motivated by the benefit of a visual indication of a temperature change.

Further, Russo '989 does not teach an outer surface of the cap having at least one non-thermochromic ink layer printed thereon.

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Pariseau '006, fig. 10, teaches it is known to apply a non-thermochromic ink layer (12) to an outer surface of a coffee lid, for temperature indication. Examiner notes that although the ink is applied in a depressed region of the lid, it is still on an exterior surface.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lid of Russo '989, replacing the indicator of Russo with a depressed surface and non-thermochromic ink layer, motivated by the benefit of an expedient temperature-change indicator.

Regarding claims 2-4, 6-14 and 19-20, the teachings of Pariseau '006 suggest use of thermochromics in temperature ranges below room temperature, i.e. for iced coffee. Further, the teachings of Nakasuji '118 suggest it is well known, and thus within ordinary skill, to configure the thermochromic polymers to change color at any temperature range between -40 and +80 degrees Celsius, as desired. The limitations of these claims are anticipated, or variations within ordinary skill, in view of the teachings of these patents.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russo US 2002/0167989 in view of Pariseau US 6,579,006, in view of Nakasuji et al. US 4,028,118, and in view of Milan US 6,318,584.

Russo '989 does not teach a liner on the coffee lid.

Milan '584 teaches a partition (38) disposed on the interior of a coffee lid. In col. 2, lines 1-5, we are taught the primary objective of the invention is to reduce spillage of hot beverage from the container upon sudden movement.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the closure of Russo '989, providing it with the partition of Milan '584, motivated by the benefit of reducing the spillage of hot beverage upon sudden movement of the container.

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***Response to Arguments***

4. Applicant's arguments with respect to claims 1-4, 6-14 and 19-20 have been considered but are moot in view of the new ground(s) of rejection.

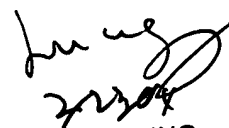
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N Smalley whose telephone number is (703) 605-4670. The examiner can normally be reached on M-Th 8-5:30, Alternate Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns

  
LEE YOUNG  
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